

Department of Energy

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of beryllium as part of their work activity.

Regulated area means an area demarcated by the responsible employer in which the airborne concentration of beryllium exceeds, or can reasonably be expected to exceed, the action level.

Removable contamination means beryllium contamination that can be removed from surfaces by nondestructive means, such as casual contact, wiping, brushing or washing.

Responsible employer means:

(1) For DOE contractor employees, the DOE contractor office that is directly responsible for the safety and health of DOE contractor employees while performing a beryllium activity or other activity at a DOE facility; or

(2) For DOE employees, the DOE office that is directly responsible for the safety and health of DOE Federal employees while performing a beryllium activity or other activity at a DOE facility; and

(3) Any person acting directly or indirectly for such office with respect to terms and conditions of employment of beryllium-associated workers.

Site Occupational Medical Director (SOMD) means the physician responsible for the overall direction and operation of the site occupational medicine program.

Unique identifier means the part of a paired set of labels, used in records that contain confidential information, that does not identify individuals except by using the matching label.

Worker means a person who performs work for or on behalf of DOE, including a DOE employee, an independent contractor, a DOE contractor or subcontractor employee, or any other person who performs work at a DOE facility.

Worker exposure means the exposure of a worker to airborne beryllium that would occur if the worker were not using respiratory protective equipment.

(b) Terms undefined in this part that are defined in the Atomic Energy Act of 1954 shall have the same meaning as under that Act.

§ 850.4 Enforcement.

DOE may take appropriate steps pursuant to part 851 of this chapter to enforce compliance by contractors with

this part and any DOE-approved CBDPP.

[71 FR 6931, Feb. 9, 2006]

§ 850.5 Dispute resolution.

(a) Subject to paragraphs (b) and (c) of this section, any worker who is adversely affected by an action taken, or failure to act, under this part may petition the Office of Hearings and Appeals for relief in accordance with 10 CFR part 1003, Subpart G.

(b) The Office of Hearings and Appeals may not accept a petition from a worker unless the worker requested the responsible employer to correct the violation, and the responsible employer refused or failed to take corrective action within a reasonable time.

(c) If the dispute relates to a term or condition of employment that is covered by a grievance-arbitration provision in a collective bargaining agreement, the worker must exhaust all applicable grievance-arbitration procedures before filing a petition for relief with the Office of Hearings and Appeals. A worker is deemed to have exhausted all applicable grievance-arbitration procedures if 150 days have passed since the filing of a grievance and a final decision on it has not been issued.

Subpart B—Administrative Requirements

§ 850.10 Development and approval of the CBDPP.

(a) *Preparation and submission of initial CBDPP to DOE.* (1) The responsible employer at a DOE facility must ensure that a CBDPP is prepared for the facility and submitted to the appropriate Head of DOE Field Element before beginning beryllium activities, but no later than April 6, 2000 of this part.

(2) If the CBDPP has separate sections addressing the activities of multiple contractors at the facility, the Head of DOE Field Element will designate a single DOE contractor to review and approve the sections prepared by other contractors, so that a single consolidated CBDPP for the facility is submitted to the Head of DOE Field Element for review and approval.

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(b) *DOE review and approval.* The appropriate Head of DOE Field Element must review and approve the CBDPP.

(1) The initial CBDPP and any updates are deemed approved 90 days after submission if they are not specifically approved or rejected by DOE earlier.

(2) The responsible employer must furnish a copy of the approved CBDPP, upon request, to the DOE Chief Health, Safety and Security Officer or designee, DOE program offices, and affected workers or their designated representatives.

(c) *Update.* The responsible employer must submit an update of the CBDPP to the appropriate Head of DOE Field Element for review and approval whenever a significant change or significant addition to the CBDPP is made or a change in contractors occurs. The Head of DOE Field Element must review the CBDPP at least annually and, if necessary, require the responsible employer to update the CBDPP.

(d) *Labor Organizations.* If a responsible employer employs or supervises beryllium-associated workers who are represented for collective bargaining by a labor organization, the responsible employer must:

(1) Give the labor organization timely notice of the development and implementation of the CBDPP and any updates thereto; and

(2) Upon timely request, bargain concerning implementation of this part, consistent with the Federal labor laws.

[64 FR 68905, Dec. 8, 1999, as amended at 71 FR 68733, Nov. 28, 2006]

§ 850.11 General CBDPP requirements.

(a) The CBDPP must specify the existing and planned operational tasks that are within the scope of the CBDPP. The CBDPP must augment and, to the extent feasible, be integrated into the existing worker protection programs that cover activities at the facility.

(b) The detail, scope, and content of the CBDPP must be commensurate with the hazard of the activities performed, but in all cases the CBDPP must:

(1) Include formal plans and measures for maintaining exposures to beryllium

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at or below the permissible exposure level prescribed in § 850.22;

(2) Satisfy each requirement in subpart C of this part;

(3) Contain provisions for:

(i) Minimizing the number of workers exposed and potentially exposed to beryllium;

(ii) Minimizing the number of opportunities for workers to be exposed to beryllium;

(iii) Minimizing the disability and lost work time of workers due to chronic beryllium disease, beryllium sensitization and associated medical care; and

(iv) Setting specific exposure reduction and minimization goals that are appropriate for the beryllium activities covered by the CBDPP to further reduce exposure below the permissible exposure limit prescribed in § 850.22.

§ 850.12 Implementation.

(a) The responsible employer must manage and control beryllium exposures in all DOE beryllium activities consistent with the approved CBDPP.

(b) No person employed by DOE or a DOE contractor may take or cause any action inconsistent with the requirements of:

(1) This part,

(2) An approved CBDPP, and

(3) Any other Federal statute or regulation concerning the exposure of workers to beryllium at DOE facilities.

(c) No task involving potential exposure to airborne beryllium that is outside the scope of the existing CBDPP may be initiated until an update of the CBDPP is approved by the Head of DOE Field Element, except in an unexpected situation and, then, only upon approval of the Head of DOE Field Element.

(d) Nothing in this part precludes a responsible employer from taking any additional protective action that it determines to be necessary to protect the health and safety of workers.

(e) Nothing in this part affects the responsibilities of DOE officials under the Federal Employee Occupational Safety and Health Program (29 CFR part 1960) and related DOE directives.